

REPORT BY THE
AUDITOR GENERAL
OF CALIFORNIA

**THE DEPARTMENT OF FISH AND GAME
IS NOT COLLECTING ALL REVENUES
OWED TO THE STATE**

REPORT BY THE
OFFICE OF THE AUDITOR GENERAL

P-546

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COLLECTING ALL REVENUES OWED TO THE STATE

NOVEMBER 1985



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Auditor General

November 27, 1985

P-546

Honorable Art Agnos, Chairman
Members, Joint Legislative
Audit Committee
State Capitol, Room 3151
Sacramento, California 95814

Dear Mr. Chairman and Members:

The Office of the Auditor General presents its report concerning the Department of Fish and Game. We reviewed the department's efforts to collect all revenue from the sale of fishing and hunting licenses and from commercial fish taxes. We concluded that the department needs to improve its collection procedures. Some licensing agents do not promptly return expired licenses and revenues from the sale of licenses. In addition, some fish dealers are either not paying the statutory tax rates or not paying fish taxes. Moreover, the department needs to improve controls over its data processing activities.

We conducted this audit to comply with Chapter 1310, Statutes of 1985.

Respectfully submitted,


THOMAS W. HAYES
Auditor General

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SUMMARY

The Department of Fish and Game (department) has not collected all revenue from the sale of fishing and hunting licenses and fish taxes that are required by statute. As a result, the Fish and Game Preservation Fund did not receive an estimated \$2.8 million in revenues and interest income, Fish and Game Codes have not been followed, and problems exist that allow for undetected losses of hunting and fishing licenses and related revenues.

The department did not collect approximately \$1.6 million in commercial fish taxes owed to the State because of poor administrative practices. The department is not levying all statutory fish taxes correctly nor taxing all sales of fish between licensed wholesalers and dealers. The department requested a formal Attorney General opinion September 17, 1985, concerning the collectibility of these fish taxes. Also, the department is not effectively monitoring the tax activities of all fish dealers and wholesalers in the State, and the department is not reviewing the status of dealers to ensure that all dealers are properly licensed.

The department has not received an estimated \$900,000 in revenues and may have lost up to \$303,000 in interest income because the department did not adequately administer the sale of fishing, hunting, and other licenses. The department is not ensuring that license agents return expired licenses, that agents are paying license fees promptly, that collections are promptly deposited and accounted for in the Fish and Game Preservation Fund, that agents are consigned licenses in amounts within stated credit limits, and that agents report lost licenses promptly. Some of the problems related to the collection of hunting and fishing license revenue will be resolved when the department's present collection plan and Chapter 1310, Statutes of 1985 (Assembly Bill 2436), are fully and effectively implemented.

Finally, the department's electronic data processing operations lack the controls necessary to ensure that all license revenue data maintained on the department's electronic data processing system are authorized, complete, and accurate. These controls pertain specifically to the license agent records. In addition, the department lacks a back-up system that would enable it to continue data processing operations in the event of a major catastrophe. Because of these deficiencies, the collection of over \$48.8 million in license revenues could be curtailed, and posting errors to license agents' accounts could be made and not detected.

INTRODUCTION

The responsibility for protecting and conserving fish and game resources in the State lies with the Fish and Game Commission (commission) and the Department of Fish and Game (department). The commission, which is composed of five members who are appointed by the Governor and confirmed by the Senate, has general regulatory powers. The commission determines fish and game seasons, sets hunting and fishing limits, and establishes methods of taking game animals and fish. The Legislature has also delegated to the commission the responsibility for formulating general fish and game policies, which the department administers and enforces.

The department, through its director, is charged with administering the Fish and Game Code and ensuring that fish and wildlife are preserved for the use and enjoyment of the people of the State. The department is funded mainly through the Fish and Game Preservation Fund, which derives its revenues primarily from the sale of hunting and fishing licenses, from court fines, and from commercial fishing taxes. Revenues from the sale of hunting and fishing licenses and fines for fiscal year 1984-85 were approximately \$48.8 million, while commercial fish taxes were approximately \$1.3 million.

Total revenues for the Fish and Game Preservation Fund for the 1985-86 fiscal year are expected to be \$54.7 million. However, these revenues will not be sufficient to meet the department's expenditure

requirements. Chapter 111, Statutes of 1985, appropriated a \$2 million loan for the Fish and Game Preservation Fund from the State's General Fund. The department is assessing the need for increasing fishing, hunting, and other licenses fees to avoid a potential deficit during the 1986-87 fiscal year.

Under Section 1055 of the Fish and Game Code, the department may authorize any person to be a "license agent" to sell and issue licenses, license stamps, and license tags. Section 1056 of the Fish and Game Code requires a license agent, when requested by the department, to execute a bond equal to the sum of the licenses delivered to the agent to secure the faithful accounting and payment of funds collected from the sale of licenses. There are 2,445 agents who sell approximately 8 million licenses, stamps, and permits each year in California.

The Fish and Game Code requires a license for every person whose business handles or deals in fish, whether the fish are taken from California waters or brought into the State fresh. Additionally, Fish and Game Code Section 8045 levies a tax on fish received by every person operating under a license. Each licensed fish dealer is required to submit a form each month that states the number of pounds received during the month and the amount of tax owed. A fish dealer must submit a form even if the fish dealer receives no fish. If the department does not receive the form on time, the department can charge a penalty equal to 10 percent of the tax due. There were approximately 1,200 licensed fish dealers in fiscal year 1984-85.

SCOPE AND METHODOLOGY

The purpose of this audit was to determine if the Department of Fish and Game is effectively and efficiently administering the sale of hunting and fishing licenses and the collection of fish taxes. To accomplish this goal, we interviewed department personnel, conducted telephone interviews of individuals who commercially handle or process fish, reviewed department files and reports, documented operational procedures, and reviewed administrative and hardware controls for the electronic data processing system.

Chapter 1310, Statutes of 1985 (Assembly Bill 2436), took effect on September 30, 1985. This bill added or changed sections of the Fish and Game Code that affect hunting and fishing license operations. In addition, this bill requires the Auditor General to conduct a compliance audit and investigation of the consignment and sale of hunting and fishing licenses issued to agents since July 1, 1980, and it requires the Auditor General to provide technical assistance to enable the department to implement this bill by November 15, 1985. Although we began our audit before Assembly Bill 2436 was enacted, we expanded the scope of our review to comply, to the extent that the department's records allowed, with the requirements of this bill.

CHAPTER I
POOR COLLECTION PROCEDURES
RESTRICT FISH TAX REVENUES

The State did not receive commercial fish taxes of approximately \$1.6 million because of poor administrative practices at the Department of Fish and Game (department). The department is neither levying all fish taxes correctly nor taxing all sales of fish between licensed wholesalers and dealers. Moreover, the department is not monitoring all fish dealers and wholesalers in the State, and it is not ensuring that all dealers are properly licensed.

THE DEPARTMENT IS NOT LEVYING
ALL STATUTORY FISH TAXES CORRECTLY

The department is not ensuring that fish dealers and wholesalers pay the statutory tax rates for fish that they handle. At least since 1982, six wholesalers either did not correctly report taxes or paid tax rates that were less than statutorily specified for shrimp processors. As a result, these six fish dealers paid approximately \$334,500 less taxes than they should have between 1982 and 1984.

Fish and Game Code Section 8045 imposes a tax at various rates for every pound of fish purchased, received, or taken by persons licensed by the department. The amount of the tax varies according to the type of fish handled and the use of the fish. The department

requires licensed fish dealers, wholesalers, and processors to report the applicable taxes each month by submitting tax reports to the department.

Through a review of the department's tax records and audit reports, we found that the department had identified four wholesalers who, at least since 1982, regularly paid a lower tax rate than specified for shrimp and one wholesaler who reported no taxes for shrimp received. The department classifies shrimp under the category of mollusks and crustaceans, and Section 8045 of the Fish and Game Code specifies that mollusks and crustaceans (excluding squid and crab) handled, irrespective of use, will be taxed at \$0.0125 per pound. Instead of paying the specified tax rate for shrimp, however, the four wholesalers paid \$.0013 per pound, the tax rate assigned to those fish not otherwise specified in the code section.

The department first identified the rate discrepancies in the latter half of 1982, but it did not conduct audits of the five wholesalers until 1985. According to the department's auditor, the department focused on the five wholesalers because he believed that these wholesalers handled 90 percent of the shrimp cooked in California. However, in a random survey of 50 wholesalers who sell only to other wholesalers, we identified another wholesaler who cooked more than 336,000 pounds of shrimp in 1984 and also paid the lesser tax rate.

The five shrimp wholesalers identified by the department who either failed to report or incorrectly reported taxes owed paid approximately \$330,700 less than they should have for shrimp handled between 1982 and 1984, and the additional wholesaler we identified reported approximately \$3,800 less taxes. In total, the department did not receive approximately \$334,500 in fish taxes due the State. The department has not assessed these wholesalers for any of the unpaid taxes. Although the department notified the wholesalers of their potential tax liability, the department is waiting for a formal Attorney General opinion, requested September 17, 1985, before the wholesalers are assessed the unpaid tax.

THE DEPARTMENT IS NOT REQUIRING
ALL FISH DEALERS TO PAY TAXES

The department is not requiring wholesalers to pay taxes for fish purchased from other wholesalers. We estimate that the department could receive additional tax revenues of \$1.3 million annually if the department levied taxes for sales of fish between wholesalers.

The department's license fees for commercial fishing create separate license classifications for the various fish dealers: processors and canners, wholesalers and preservers, and fish brokers and importers. In addition, the department created a subclassification for wholesalers who receive fish only from other wholesalers. The department requires all of these fish dealers to file a monthly tax report regardless of whether they handled any fish during the month.

For tax purposes, however, the department assesses taxes only on dealers who receive fish from fishermen or on dealers who process fish; the department does not require wholesalers to pay taxes for fish purchased from other wholesalers.

However, Section 8045 of the Fish and Game Code states that all licensed fish dealers and wholesalers must pay a specified tax for all fish handled. In addition, a legal opinion from the Legislative Counsel confirms the State's right to levy the tax required by Section 8045 more than one time on transactions involving the same fish. The Legislative Counsel concluded that the tax applies to all dealers licensed by the department. Again, the department is waiting for a formal Attorney General opinion, requested September 17, 1985, before fish taxes are assessed on all dealers.

The department estimates that its tax receipts would double if the department enforced Section 8045 and required all wholesalers to pay taxes for all fish received from other wholesalers. Since the department estimated that it collected taxes of \$1.3 million in 1984-85, we estimate that the department could have received additional tax revenues of \$1.3 million for 1984-85 if the department levied taxes for sales of all fish between all wholesalers.

On December 10, 1984, the department's director formed a task force, composed of departmental staff, to examine Section 8045 of the Fish and Game Code. On February 11, 1985, the task force reported that

only fish landed in California and fish imported into California that are thereafter processed are subject to fish taxes. Also, the report stated that accounting for fish landed in the State and fish imported for processing is a relatively simple procedure, but accounting for fish as they move from one dealer to several other dealers is not a simple task. In addition, the report stated that after landing or importation, fish may become commingled with nontaxable fish, creating a need for detailed and time-consuming audits to accurately collect taxes. The department believes the costs of assessing taxes on all dealers would consume a large portion of the increased revenues collected and may not be cost effective.

As of November 14, 1985, the department was not collecting the tax and had not yet developed a detailed plan itemizing the costs of collecting the tax. As a result, the cost effectiveness of collecting the tax had not yet been determined.

THE DEPARTMENT IS NOT MONITORING
ALL FISH DEALERS

The department is not effectively monitoring all fish dealers to ensure that they report all the taxes they owe. The department does not review sales among wholesalers who receive fish only through other wholesalers, and the department does not routinely review the status of dealers to ensure that all dealers are properly licensed. As a result, 350 dealers were not monitored to see that they paid all taxes, and approximately 422 dealers did not renew their licenses for fiscal year 1985-86 even though they may have continued to operate.

The department's Marine Resources Region is responsible for enforcing the regulations governing commercial fishing. The Marine Resources Region regularly obtains information on fish dealers from receipts that Sections 8011 and 8014 of the Fish and Game Code require the dealers to submit twice per month. These dated receipts list the weight and types of fish received and the name of the fishermen who sold the fish. Each year, the department's auditor compares the data from the receipts with the tax reports filed by dealers to identify discrepancies between these two sets of data. However, the receipt data represent sales only between fishermen and fish dealers; the data do not cover sales between fish dealers. Therefore, the auditor's annual review of tax reports does not identify fish dealers who receive fish only from other dealers. Consequently, the auditor does not routinely review these dealers.

To determine whether the department should routinely review the dealers who receive fish only through other dealers, we reviewed the 1984 tax files for 354 of these dealers. We determined that at least 43 of these dealers paid approximately \$39,300 in taxes in 1984. We also determined that the department audited the 1984 tax records of only 4 of the dealers to determine if the dealers correctly reported all taxes owed. All 4 were shrimp dealers who reported \$71,500 less taxes than they should have reported in 1984. In addition, we interviewed a sample of 33 dealers and found that one dealer did not report \$3,770 in taxes owed in 1984.

Along with collecting the required receipts, the Marine Resources Region also handles the licensing of fish dealers. This year, the region sent license renewal applications to currently licensed dealers before the end of the fiscal year and subsequently processed the renewals that dealers returned. In addition, the region processes license applications from new dealers throughout the fiscal year. Each month, the region updates a list of the currently licensed dealers. The department distributes the tax forms for the following month to the dealers on the list. The dealers must return the forms every month along with any taxes owed to the department.

We reviewed the department's current list of licensees and tax records and found that after the first three months of the fiscal year, 422 of the fish dealers who were licensed in fiscal year 1984-85 did not renew their licenses for fiscal year 1985-86. The department's auditor said that some of these fish dealers are still operating and therefore should be licensed by the department. However, the department cannot readily identify dealers who do not renew their licenses because the department does not routinely monitor the license renewal program. The department forwards only one renewal application to the dealers and does not maintain a follow-up system that routinely reviews the applications returned by dealers to identify those who do not return the application. According to a staff member of the Marine Resources Region, the department can identify these dealers by using its computer resources. However, the department had not identified the dealers as of October 31, 1985, and therefore could not review the

dealers to determine if they should be licensed. As a result, we estimate that the department did not collect as much as \$27,400 in license fees from these 422 unlicensed dealers who may be handling or processing fish. In addition, since these dealers did not renew their licenses, the department did not have their names on the mailing list and therefore did not send them any monthly tax forms for the three-month period. Consequently, the department has not collected all fish taxes from the fish dealers who should be licensed.

Section 8040 of the Fish and Game Code requires all fish dealers, wholesalers, and processors to obtain a license for each plant or place of business. Additionally, Section 8019 states that all licensed dealers must report monthly all taxable fish received during that month. As the agency responsible for enforcing the Fish and Game Code, the department should be ensuring that commercial fish dealers are properly licensed and that licensed dealers are promptly reporting the amount of taxable fish that they handle. In addition, the department should be regularly reviewing licensed dealers to ensure that the dealers are correctly reporting taxes specified by Section 8045 of the Fish and Game Code.

THE DEPARTMENT IS ADMINISTERING
THE COLLECTION OF FISH TAXES POORLY

The problems discussed above have resulted because of poor administrative practices and insufficient review of the fish tax program. The department has followed practices that are inconsistent

with the Fish and Game Code because the department has not established formal procedures for the daily operation of the program. In addition, the department is not collecting all pending tax payments because the department has not formally assigned the collection responsibility to staff.

The department's assistant director of administration stated that the department's fiscal officer is the formal administrator of the fish tax audit program. However, the fiscal officer acknowledged that he did not regularly review the daily operations of the program because the program did not require daily administration. The fiscal officer explained that only the department's auditor and an accounting technician perform the program's daily tasks. The fiscal officer further explained that he reviews only the auditor's timesheets and itineraries and that the auditor usually consulted him on the fish tax issues.

The limited involvement of the department's assistant director of administration and the fiscal officer in administering the fish tax program shows that the department lacks effective management of the program and that the department does not regularly review the activities of the fish tax program. Both the assistant director of administration and the fiscal officer also acknowledged that the department does not have formal procedures or policies for administering the fish tax program. For example, the department's auditor said that the department has not formally documented its

practice of not imposing taxes on sales of fish between wholesalers, a practice that, according to the Legislative Counsel, is inconsistent with the Fish and Game Code. The department's auditor believes that the department informally developed the practice in the mid-1970s in response to the department's inability to monitor wholesalers who received fish only from other wholesalers.

The department's collection efforts are hindered because the department has not formally assigned collection responsibilities. The department's job description for the position of accounting technician states that the role of the accounting technician includes the daily review of incoming tax reports. Although we could not find a job description for the department's auditor position, the assistant director of administration stated that the department's auditor allocates 90 percent of his time to the fish tax program and the remaining time to other areas. The auditor acknowledged that he allocated nearly 90 percent of his time to the fish tax program, a program that received only \$1.3 million (2.4 percent) of the \$53.8 million in revenues that the department received in fiscal year 1984-85. The auditor also acknowledged that he handled the tax collection responsibilities as well as the auditing responsibilities for the fish tax program. According to the department's fiscal officer, the fiscal branch is formally responsible for collecting taxes, but it informally permits the auditor to collect fish taxes since the auditor deals more closely with the fish dealers. Consequently, the auditor may have less time for audit activities and

may be limiting his ability to properly audit the collection activities.

Part of the department's problems in collecting taxes owed have also resulted because the department does not impose interest charges on pending tax payments. Fish and Game Code Section 8047 states that all taxes must be paid monthly to the department within 30 days after the end of each month. Furthermore, this section requires the department to assess a penalty equal to 10 percent of the tax if the fish dealer fails to pay all taxes within 60 days after the close of the month for which the tax is due. The 10 percent penalty applies equally to all late payments regardless of whether the dealer submits the payment one day late or one year late. As a result, the penalty does not encourage dealers to pay promptly. The department could assess an interest penalty, which continually accumulates while the payment remains outstanding. However, the department has not assessed such a penalty on pending tax payments.

We requested a legal opinion from the Legislative Counsel on whether the department can collect interest in addition to statutory penalties on taxes owed the State by licensed fish dealers. The Legislative Counsel opinion stated that Section 8048 of the Fish and Game Code expressly provides for any unpaid tax, including "interest" as well as penalties, to become a state tax lien. The Legislative Counsel concluded that the department may collect interest on money owed the State by licensed fish dealers.

The department is not effectively monitoring all fish dealers because the department is not utilizing all available resources. For example, the department does not maintain a schedule of taxes reported by each fish dealer and, as a result, does not know which dealers paid the most taxes during the year. Instead, the department relies on receipt data obtained through the Marine Resources Region to review the amount of fish that dealers received from fishermen. However, the receipt data do not include information on sales between wholesalers or information on processed fish, therefore limiting the number of dealers included in the department's review of the data.

If the department had effectively managed the fish tax program and collected all taxes owed by fish dealers, the State would have received approximately \$1.6 million in additional taxes.

CONCLUSION

The Department of Fish and Game is not collecting all the commercial fish taxes owed the State because of poor administrative practices. The department is not effectively monitoring the collection of all taxes or the activities of all dealers, and the department is not ensuring that all dealers are properly licensed. As a result, the State did not collect approximately \$1.6 million in fish tax revenue.

RECOMMENDATIONS

The Department of Fish and Game should assess and collect the taxes owed by the shrimp dealers identified in the department's audit reports. The department should begin charging interest on these taxes from the date the taxes were due. The department should also assess taxes on all sales of fish between licensed dealers, and the department should require fish dealers to report monthly all fish handled and pay taxes accordingly. If the department computes the costs of collecting these taxes and finds that this effort is not cost effective or finds that a different taxing methodology is better, the department should work with the Legislature to change the present law.

To ensure that pending tax payments are promptly collected, the department should impose an interest charge on late payments and develop and implement collection procedures. Also, the department should formally assign collection responsibilities to staff and develop a system for tracking late payments.

To increase the effectiveness of its enforcement activities for monitoring fish dealers, the department should do the following:

- Implement a system for maintaining balances of dealer accounts;
- Develop and implement a system for monitoring sales of fish between wholesalers; and
- Develop and implement a system for monitoring license renewals.

To improve the collection of statutory taxes for fish handled, the department should take the following actions:

- Assign to the fish tax program an administrator who is directly responsible for all activities of the program;
- Require personnel assigned activities in the fish tax program to report directly to the administrator responsible for the program;
- Develop and implement formal policies and procedures for administering the fish tax program, including a formal statement of the program's mission and goals that is consistent with the Fish and Game Code, a description of the roles and responsibilities of personnel assigned activities in the fish tax program, and a description of all activities that should be performed to ensure that

correct rates are charged, correct weights are reported, and all fish taxes owed are collected; and

- Institute regular management reviews of the policies of the fish tax program to ensure that they are consistent with the Fish and Game Code and the department's objectives.

Finally, after assigning an administrator responsible for the fish tax program, the department should consider redirecting the work of the department's auditor so that other programs, which generate more revenues than the fish tax program, receive a proportional share of the auditor's time.

CHAPTER II
POOR COLLECTION PROCEDURES
FOR LICENSING REVENUES

The State is losing revenue and interest income because the Department of Fish and Game does not effectively administer the sale of fishing, hunting, and other licenses. The department is not ensuring that license agents return expired licenses, that agents pay license fees on time, that collections are promptly deposited and accounted for in the Fish and Game Preservation Fund, that agents are not consigned more licenses than allowed by their credit limits, and that agents report lost licenses promptly. Consequently, the State has not received an estimated \$900,000 in revenue and may have lost up to an estimated \$303,000 in interest earnings.

THE DEPARTMENT IS NOT ENSURING
THAT AGENTS RETURN EXPIRED LICENSES

There is approximately \$1.0 million in expired hunting and fishing licenses that are consigned to license agents and are up to four years old. Approximately \$114,800 is in a formal collection process and, based on information provided by the department, approximately \$710,500 is estimated to be cash owed for sold licenses. Also, licenses valued at approximately \$112,900 are assigned to department employees. The chief license officer is aware of the outstanding expired licenses, but due to current operating procedures, licenses continue to be consigned to agents whose accounts show

outstanding licenses. As long as agents show a regular payment pattern, the department provides additional licenses, regardless of whether agents return or pay for current or expired licenses. Consequently, the department has approximately \$1.0 million in expired licenses consigned to license agents and may have lost up to \$75,000 in interest earnings as of September 30, 1985.

The department's License and Revenue Branch sells licenses to the general public and consigns licenses to agents and regional and field offices. Regional and field offices also sell licenses to the general public. Department employees at regional and field offices who are given the responsibility for selling licenses are assigned an account and issued licenses. However, the department is not reconciling these accounts at the end of each hunting and fishing season. As a result, accounts assigned to department employees contain expired licenses amounting to \$112,900, approximately 11 percent of the total outstanding expired licenses. Some of these expired licenses are up to four years old.

Half of the accounts that include expired licenses are held by the License and Revenue Branch and headquarters personnel; the remaining accounts having expired licenses are held by field and regional office personnel. There are also expired licenses assigned to employees who are either no longer with the department or no longer in a position to sell licenses. One of the accounts contains licenses that are up to four years old. Licenses assigned to employees who are

no longer with the department or in a position to sell licenses were valued at approximately \$10,000.

At the time of our review, Fish and Game Code Section 1055e required agents to pay fees by the tenth of the month following the sale of the licenses. Since agents are not able to sell expired licenses, agents should return all fees for licenses sold the last month of the season and all unsold license books by the tenth of the month following the last month of the season. Sport fishing licenses run on a calendar year; therefore, all fishing license revenues and unsold licenses should have been returned to the department by the tenth of January. Hunting licenses run on a July through June fiscal year; therefore, all unsold hunting licenses and hunting license revenues should have been returned to the department by the tenth of July. Commercial fishing licenses are valid from April of one year through March of the next year. All revenues collected for commercial fishing licenses and all unsold commercial fishing licenses should have been returned to the department by the tenth of April.

According to the chief license officer, the department has historically emphasized providing licenses to the public through license agents. Therefore, the department has continued to provide licenses to agents who have poor payment patterns if these agents reside in an area of high demand that is served by a few license agents. Agents who had consistent reporting patterns were supplied new licenses even if expired licenses were on their accounts. The

department did not begin to effectively encourage compliance with the Fish and Game Code section that requires agents to return unsold expired licenses or revenues from expired licenses until November 1984.

Another reason for the large number of outstanding expired licenses is that the department has been slow in developing and implementing an adequate collection program. Although the department had ready access to reports listing agent accounts containing expired licenses, the department did not use this information to collect from the agents until November 1984. At that time, all agents holding expired licenses were contacted and requested to pay license fees or return expired licenses. Although the department was able to clear some overdue accounts, they still had \$1.0 million in outstanding expired licenses as of September 4, 1985.

Additionally, department accounts at the License and Revenue Branch contain expired licenses because the department has not reconciled the account receipts to the cash register and account inventory on a daily or weekly basis. As a result, discrepancies in the accounts accumulate throughout the season. Personnel responsible for the accounts either have difficulty in resolving discrepancies at the end of the season or do not attempt to do so. The chief license officer indicated that new accounts are assigned to department employees each year so they can work from "clean" accounts and that old accounts are not cleared at the end of the season because one season ends when sales for the next season are at their highest. According to

department employees, discrepancies in the accounts take considerable time to research and resolve, and the employees have little time to review old accounts.

The chief license officer is also aware that accounts exist for employees who no longer work for the department, and she indicated that she instructed her staff to resolve the accounts. However, they have not done so.

Because the department has approximately \$1.0 million in expired licenses consigned to license agents, the department may have lost up to \$75,000 in interest earnings. If the outstanding expired licenses consigned to agents have been sold, the agents may be collecting interest on the revenues or using the revenues for their business or personal use. The number of outstanding license consignments for past hunting and fishing seasons should decline, however, when the department fully implements Chapter 1310, Statutes of 1985 (Assembly Bill 2436). This bill requires license agents to return all unsold licenses to the department by the 20th day following the close of the license year; otherwise, the department will not consign additional licenses to the agent.

THE DEPARTMENT IS NOT ENSURING THAT
AGENTS ARE SUBMITTING LICENSE FEES PROMPTLY

The department is not ensuring that agents promptly submit license fees from the sale of current licenses. Our statewide sample

showed that 69 percent of the payments were late and, on the average, 23 days overdue. Because the department does not force agents to submit license fees when due, we estimate that the State lost \$130,000 in interest earnings in fiscal year 1984-85.

Agents are required to record the date of sale of each license on the cover of the license book or on the license stub, depending upon the type of license book. At the time of our review, agents were required by Fish and Game Code Section 1055e to submit revenues by the tenth of the month following the month that licenses, tags, or stamps were sold. We examined a sample of 200 license books and compared the date that the last license was sold to the date that the fees were paid. While 31 percent of the returns were submitted early or on time, 69 percent of the time, agents submitted fees an average of 23 days after the 10th of the month following the month in which the last license in the book was sold. Because of this delay, we estimate that the State lost up to \$130,000 in interest earnings in fiscal year 1984-85.

The department has not collected license fees from agents more promptly because the department has not established an adequate system for monitoring and collecting overdue remittances. The assistant director, who is responsible for administration of the fishing and hunting licenses, stated that prior to 1985, the department believed that the agents, for the most part, eventually paid and that following up on late reports was not worth the effort.

The department has been able to decrease the amount of time that agents take to pay fees. According to a study performed by the department in December 1983, the average time between the date a license was sold and the date the department received payment was 82 days for fishing licenses and 40 days for hunting licenses. Our survey, in September 1985, indicated that the average number of days between the sale of a license and payment to the department was 37 days for both types of licenses. The improvement may be due to the department's implementation of a new collection program, the 30-60-90 Day Plan. This automated program puts agent accounts on hold when they are 30 days late in reporting and thus prohibits them from receiving additional licenses to sell. If an agent account is 60 days delinquent, the local game warden audits the agent's inventory and collects fees if possible. If the agent does not report within 90 days, the department closes the agent's account and begins collection procedures.

Additionally, we expect that agents will begin sending in fees for licenses sold more promptly when Chapter 1310, Statutes of 1985 (Assembly Bill 2436), is fully implemented. The bill authorizes the department to assess penalties and interest on payments received after the 20th day of the month following the month of the sale of the last license in the book.

THE DEPARTMENT IS NOT PROMPTLY DEPOSITING
COLLECTIONS OR CREDITING THE DEPOSITS
TO THE FISH AND GAME PRESERVATION FUND

The department is delaying revenue deposits from one to three days and is not promptly crediting deposits to the Fish and Game Preservation Fund. As a result, the State lost interest earnings of \$18,000 for fiscal year 1984-85 and the State's General Fund received approximately \$80,000 in interest income that could have been received by the Fish and Game Preservation Fund.

The department receives license revenues from over-the-counter sales and from agents who remit fees through the mail. The department's cashier takes the revenue, prepares a deposit report, and gives the deposit to a private courier for delivery to a state-approved bank. Deposits are picked up by armored car service once or twice a day depending upon the volume of returns received. The deposits are kept in the transport vehicle until the end of the day, when they are transferred to a vault. The deposits are delivered to a state-approved bank in the afternoon of the following day. Deposits picked up on Monday through Thursday are delayed by one day, while deposits picked up on Friday are delayed three days. However, the manager of the armored car service said that the department's deposits could be delivered to the state depository on the same day they are picked up because the truck used for the pickup stops at the state depository after stopping at the department. The department could receive this service at no extra charge.

The frequency and methods to be used in handling cash are stated in the State Administrative Manual (SAM). According to SAM Section 8030.1, part 4, agencies should consider adopting any procedure to expedite deposits if the additional interest earned will exceed the costs of such a procedure. Additionally, SAM Section 8030.1, part 3, states that if an agency's daily collections exceed \$5,000 in cash, checks, money orders, and warrants, the agency must deposit them in approved depositories on the day of receipt. During the 1984-85 fiscal year, the department's daily deposits ranged from \$26,295 to \$585,915. The average daily deposit was \$123,600.

In addition to not promptly depositing license revenues, the department is not promptly applying the deposited revenues to the Fish and Game Preservation Fund. Deposits are initially made to a state-approved depository, which accrues interest for the State's General Fund. Before the department can accrue interest from the deposits, it must notify the State Treasury to transfer the deposits from the General Fund to the Fish and Game Preservation Fund. SAM Section 8091 requires agencies to notify the State Treasury as soon as possible when accumulated deposits amount to \$25,000. In addition, the SAM specifies that deposits must be transferred to the State Treasury no later than the first day of the week following an accumulation totaling \$25,000. However, the department normally notifies the State Treasury to transfer accumulated deposits two times a month in amounts of up to \$2.8 million.

The department is losing interest on its deposits because personnel responsible for depositing collections believe that the deposits are held for at least one day because of reporting requirements prescribed by the State Treasurer's office. SAM Section 8033 requires an agency to notify the State Treasury by 1:30 p.m. of deposits exceeding \$100,000 in any one day, and an estimate will suffice when the exact deposit amount is not known. The deputy director, who is responsible for administration of hunting and fishing licenses, was not aware that the deposits were being delayed.

The one-to-three-day delay in depositing daily collections cost the State approximately \$18,000 in lost interest for fiscal year 1984-85. In addition, we estimate that the State's General Fund received approximately \$80,000 in interest income that could have been received by the Fish and Game Preservation Fund had the department promptly notified the State Treasury to transfer the deposits. In total, as of June 30, 1985, the department lost approximately \$98,000 in interest income for fiscal year 1984-85 deposits because it delayed deposits from one to three days and did not promptly credit deposits to the Fish and Game Preservation Fund.

THE DEPARTMENT IS NOT CONSIGNING LICENSES
IN ACCORDANCE WITH ASSIGNED CREDIT LIMITS

License agents required to be bonded by the department are consigned more licenses than they should be. Of the 1,547 bonded agents, 290 (19 percent) hold consignments greater in value than their

credit limits as established by their bond. In total, the department has consigned to bonded license agents \$688,400 more than allowed by their collective credit limit. Additionally, 1,133 (46 percent) of the 2,454 agents not required to be bonded hold consignments in excess of their established credit limits. Nonbonded agents are consigned \$6,304,000 in excess of their established credit limits.

Fish and Game Code Section 1056 states that the department can require an agent to execute a bond equal to the value of the licenses delivered to that agent. Credit limits are established to avoid unnecessary risk or exposure to losses. Overextension of credit limits can result in losses of money owed and loss of interest earnings.

When a person applies to become a license agent, the department's policy has been to require a bond of at least \$4,000. The value of the bond establishes the agent's credit limit. However, agents can establish higher credit limits if they are willing to execute larger bonds. The department has not established criteria for determining whether an agent should be bonded and what the amount of the bond should be.

The chief license officer believes that an agent's credit worthiness cannot be assessed until the agent has been an agent for some time. If the agent has a good reporting pattern after three years, the department drops the bonding requirement and gives the agent "full credit status." Full credit status means that an agent is

considered a "good risk" and is not required to be bonded. Usually, the agent's credit limit is increased.

However, even though an agent's credit limit is set by the value of the bond, the department does not adhere to the credit limit. The order clerks, who are responsible for consigning licenses to agents, make arbitrary decisions regarding the filling of orders because the credit limits as stated on agents' accounts are considered to be inadequate by the chief license officer. When filling an order that will exceed the credit limit, the order clerks consider the amount of overconsignment, the agent's reporting history, and the availability of licenses in the area. However, the process and criteria that they use are not consistent.

The assistant director is aware that credit limits are being exceeded and that the chief license officer is directing order clerks to violate credit limits intentionally in order to adequately stock agents for the start of the hunting and fishing season. Because the department does not enforce credit limits according to established criteria, the department exposes the State to unnecessary risk of lost revenue and lost interest earnings. In addition, the risk is increased because the department does not adhere to those credit limits that it has established.

The risk of consigning licenses in amounts above credit limits is illustrated by the department's present efforts to collect on

outstanding 1983 licenses. The department provided information on the status of collection procedures as of the end of October 1985. At that time, the department was attempting to collect \$21,500 for 1983 licenses from agents who have gone bankrupt. In addition, agents are presently paying on account for a total of \$58,000 for 1983 licenses. Finally, delinquent agent accounts, showing expired 1983 licenses valued at \$35,300, have been turned over to the Attorney General for collection. In total, \$123,500 was owed to the department for 1983 licenses as of the end of October. The department is just now attempting to collect on expired 1984 licenses, which were valued at \$695,000 at the beginning of September 1985. Collection status information was not available for outstanding 1981 and 1982 licenses.

When implemented by the department, the provisions of Chapter 1310, Statutes of 1985 (Assembly Bill 2436), effective November 15, 1985, should reduce or eliminate overconsignments. This law requires license agents to be bonded or to have certificates of deposit payable to the department in the amount of the licenses consigned to them. However, agents who pay for licenses when they are issued are not required to be bonded, and agents who have not been delinquent in paying fees or returning unsold licenses since July 1, 1985, are not required to be bonded. Additionally, agents who comply with payment and reporting requirements for 12 consecutive months are not required to be bonded.

THE DEPARTMENT IS NOT MONITORING
OR CONTROLLING THE REPORTING OF
LOST OR DESTROYED LICENSES

Since the beginning of 1983, license agents have reported license losses totaling \$190,500. Of the license losses reported since 1983, 58 percent have been reported at least one year after the loss. Some lost licenses have been reported as late as three years after the loss.

Section 1060 of the Fish and Game Code allows an agent to submit an affidavit to settle the account for licenses that have been lost or destroyed. The affidavit must show the value and classification of the licenses, serial numbers, and cause of loss or destruction.

To evaluate license losses reported by agents, we reviewed all the affidavits that the department received between January 1983 and October 1985. The reported losses were broken down into the following categories: (1) lost by the carrier service, (2) never received by the agent, (3) lost or destroyed, (4) stolen, (5) lost in the mail, and (6) destroyed by fire or flood.

The department wrote off licenses amounting to \$47,500 in 1983, \$76,200 in 1984, and \$66,900 for January through September in 1985. In each of the years we reviewed, agents had submitted reports for lost licenses that were up to three years old. Licenses lost by

the carrier service proved to be the most significant, representing 33 percent of losses since 1983. In total, licenses valued at \$190,500 have been reported lost since January 1983, and 58 percent of licenses lost since 1981 have been reported at least one license season after the loss.

Fish and Game Code Section 1055e requires agents to report monthly on licenses sold or returned. Agents should at or before this time report on loss of licenses. Additionally, department policy requires license agents to report within 10 days if they do not receive licenses as indicated by the packing slip, which is included with orders sent to agents. However, since the department does not send invoices separate from the order package, agents are not able to immediately report licenses lost by the carrier.

Despite the legal and policy requirements, agents do not promptly report lost licenses because the department has not established guidelines for submitting affidavits. The department accepts affidavits regardless of the year for which the licenses are being reported, even if the loss occurred several years in the past. In addition, the employees who process the affidavits do not question or investigate the cause of loss. Because the department is not enforcing Fish and Game Code Section 1055e requiring prompt remittance or enforcing its own policy on reporting delivery shortages, the department may have inappropriately allowed \$190,500 in revenues to be reported lost.

CONCLUSION

The Department of Fish and Game is losing revenue and interest income due to inadequate administration of the sale of fishing, hunting, and other licenses. The department has lost up to \$75,000 in interest earnings because approximately \$1.0 million in expired hunting and fishing licenses are consigned to agents. Additionally, because the department is not ensuring that agents submit license fees promptly, the State lost up to \$130,000 in interest earnings in fiscal year 1984-85. The State also lost approximately \$98,000 in interest because of delayed deposits and transfers of deposits to the Fish and Game Preservation Fund. Furthermore, the department has exceeded agents' credit limits for license consignments by approximately \$7 million. Finally, the department has not established criteria for evaluating reported loss of licenses and, as a result, may have inappropriately allowed as much as \$190,500 in revenue to be reported missing by agents since January 1983.

RECOMMENDATIONS

To ensure that agents promptly submit fees from license sales, the Department of Fish and Game should do the following:

- Continue to follow the 30-60-90 Day Plan, which allows the department to close license agents' accounts if agents do not submit license fees by the prescribed deadline;
- Charge interest on license fees that are submitted late, as required by Chapter 1310, Statutes of 1985; and
- Stop consigning additional licenses to agents who have failed to return unissued expired licenses within 20 days of expiration.

To increase interest earnings to the Fish and Game Preservation Fund, the department should use a same day deposit service, which the department's present courier can provide at no additional cost. Additionally, the department should transfer license revenues from the State's General Fund to the Fish and Game Preservation Fund at least twice a week.

To provide better accountability of individual license books, the department should incorporate the use of license book serial numbers that are consigned to agents. Doing so would improve accountability for licenses and reduce staff time needed to research reporting problems.

To ensure that department license accounts are kept in order and current, the department should require department personnel who are assigned license accounts to reconcile cash receipts, cash register tapes, and inventory each day. Additionally, the department should reconcile and close out all old accounts assigned to department personnel.

To avoid taking unnecessary credit risks, the department should formulate criteria for evaluating agents' credit worthiness and establishing credit limits. The department should adjust credit limits as necessary and adhere to them as required by Chapter 1310, Statutes of 1985. This law requires every person authorized to issue licenses to submit a bond or certificate of deposit equal to the sum of the licenses consigned to the agent by the department unless the person has already demonstrated satisfactory payment patterns for one year.

To ensure that licenses consigned do not exceed agents' credit limits, the department should develop formal criteria for the order clerks to use when determining whether additional licenses should be consigned to an agent. The criteria should include specific instructions so the order clerks will not make subjective judgments when filling orders. The department should distribute information to the agents on credit limits and require strict adherence to credit limit policies.

Finally, to protect against loss due to improper reporting of lost licenses, the department should formulate criteria for evaluating affidavits that license agents submit when reporting lost licenses. Additionally, Chapter 1310, Statutes of 1985 (Assembly Bill 2436), now requires license agents to report license loss before the end of the next business day after the loss has occurred. To ensure that agents report lost licenses promptly, the department should penalize agents who do not report losses by the established deadline. Also, to ensure that agents are aware of the licenses that are shipped to them, the department should send an additional invoice separate from the order package.

CHAPTER III
POOR CONTROLS OVER
DATA PROCESSING ACTIVITIES

Management of the Department of Fish and Game has limited assurance that license revenue data maintained on the department's electronic data processing system will be available when they are needed and that the data are authorized, complete, and accurate. As a result, operations related to the collection of over \$48.8 million in revenue could be curtailed, and undetected accidental or purposeful posting errors to license agent accounts could occur. These risks exist because the department has not established the necessary controls over the data processing system and because the License and Revenue Branch does not ensure that each transaction is approved and correctly processed.

THE DEPARTMENT LACKS NECESSARY
ELECTRONIC DATA PROCESSING CONTROLS

The department's electronic data processing section does not adequately separate incompatible data processing duties, maintain physical security over data processing assets, have an effective plan to continue data processing operations in the event of a physical disaster, and have adequate information to keep existing programs operating should experienced personnel leave.

During our review of the department's electronic data processing system, we observed that a programmer is allowed to change data on license agent files without formal written approval and without reference to source documents to determine the cause for the change. In addition, a programmer is allowed to change computer programs and data files without having another programmer, a supervisor, or a systems librarian record a description and history of all changes to ensure that they are authorized and complete. Furthermore, a programmer is allowed to operate the computer as well as make changes to programs.

State Administrative Manual Section 4846.5 states that no one employee should be allowed complete control over all important stages of a transaction. Furthermore, Section 4846.5 requires the system programming function to be separate from the system library function and the computer operator function.

Because the department does not adequately separate incompatible data processing duties, department programmers are in a position to accidentally or purposefully post incorrect increases or decreases to license agent accounts without being detected by other departmental personnel. These errors could include deleting agent accounts, modifying amounts owed, and adding fictitious agents.

In addition, on the day we visited the department's data processing facility, we found that the facility was left unattended.

State Administrative Manual Section 4845.71 requires that entrances to a data processing facility be guarded or locked at all times. This breach of security could allow a citizen or an employee to vandalize the department's computer, computer programs, and files of license agents accounts.

Furthermore, the department's computer records showing amounts owed by license agents would not be accessible to department employees if the department's computer broke down. As a result, operations involving the collection of over \$48.8 million in revenues would be curtailed. Other state agencies have made arrangements to process data at another state agency in the event of a computer failure. However, the department's computer is not compatible with computers available elsewhere in state government, so the department would have to make arrangements with private industry. The department's data processing manager said that the department had not made arrangements to operate at another facility in an emergency because the department believed the computer manufacturer would be able to repair the equipment quickly in the event of failure.

Finally, the department's data processing system that maintains records for over \$48.8 million in revenue may not function effectively if key data processing personnel leave the department. The department has not required its programmers to prepare and maintain adequate program documentation, such as record layouts, sample reports, logic charts, and data entry instructions, which would be part of a

fully documented system. The program documentation we reviewed contained only a brief narrative on the function of the program and some operator instructions; many of these documents were several years old.

THE DEPARTMENT DOES NOT ENSURE
THAT TRANSACTIONS ARE ACCURATE

The License and Revenue Branch does not ensure that license agent accounts are accurate and that all transactions involving agent accounts are appropriate. As a result, department employees could make accidental or purposeful posting errors to license agent accounts without being detected.

Good control procedures require evidence that monthly new additions to the license book inventory file are reconciled to the invoices for printing new license books, that the monthly consignments posted as deductions to the license book inventory file agree to the monthly consignments posted as additions to the license agent consignment file, that cash receipts posted as deductions to the agent consignment file agree to cash receipts posted as additions to the cash receipts file, and that returned licenses posted as deductions to the license agent consignment file agree to returned licenses posted as increases to the license inventory file. In addition, good control requires periodic inventories of licenses to ensure that the number of licenses in the storeroom agrees with the number shown on the license inventory file and that listings of all adjustments to data files are approved by responsible authorities before they are posted.

Department personnel do perform some control procedures. For example, employees reconcile licenses reported sold by agents to checks and cash received and to data entered into the computer system. Additionally, they reconcile licenses reported returned by agents to license books returned and to data entered into the computer, and they ensure that license books are accounted for by number and issued to agents sequentially.

However, we did not find all necessary controls. For instance, returned licenses are not placed back into the storeroom, and accountability for them is not reestablished by recording in the license inventory file the dollar value of the returns. In addition, the dollar value of expired licenses is not accounted for by reconciling the deductions from the inventory file to affidavits of expired licenses destroyed by the department. Furthermore, all adjustments, including loss and theft write-offs, are not accounted for and periodically reconciled to batches of approved documents supporting the adjustments.

As a result, the department does not have a systematic process to ensure that all additions to and deletions from license book inventory files, agent consignment files, and cash revenue files agree with each other, that the additions and deletions agree with source documents for various periods, and that file balances agree with available assets.

CONCLUSION

The Department of Fish and Game lacks necessary data processing controls, and the License and Revenue Branch does not ensure that each transaction is authorized and correctly processed. As a result, department management has limited assurance that license revenue data maintained on the department's electronic data processing system will be available when they are needed and that the data are accurate.

RECOMMENDATIONS

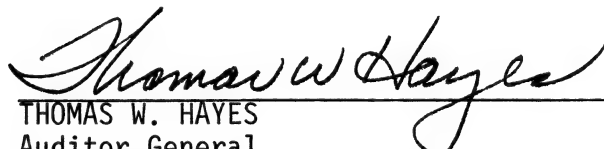
To improve control over its data processing activities, the Department of Fish and Game should take the following actions:

- Adequately separate data processing duties within the electronic data processing section, and between the electronic data processing section and divisions that use data processing services;
- Limit access to computer hardware, data files, and computer programs to authorized individuals by constantly maintaining control points at the data processing facility;

- Make arrangements to continue operations should a physical disaster or hardware failure take place;
- Provide adequate program documentation and data processing instructions; and
- Reconcile all additions to and deletions from the license book inventory and license agent account files to approved source documents.

We conducted this review under the authority vested in the Auditor General by Section 10500 et seq. of the California Government Code and according to generally accepted governmental auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,


THOMAS W. HAYES
Auditor General

Date: November 25, 1985

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Department of Water Resources

GEORGE DEUKMEJIAN
GOVERNOR OF
CALIFORNIA



THE RESOURCES AGENCY OF CALIFORNIA
SACRAMENTO, CALIFORNIA

Air Resources Board
California Coastal Commission
California Conservation Corps
Colorado River Board
Energy Resources Conservation
and Development Commission
Regional Water Quality
Control Boards
San Francisco Bay Conservation
and Development Commission
Solid Waste Management Board
State Coastal Conservancy
State Lands Commission
State Reclamation Board
State Water Resources Control
Board

Thomas W. Hayes, Auditor General
660 "J" Street, Suite 300
Sacramento, CA 95814

Dear Mr. Hayes:

I have asked Jack Parnell, Director of the Department of Fish and Game, to review and comment on your report "The Department of Fish and Game is not Collecting all Revenues Owed to the State." The report has been kept confidential.

The Department's comments on the report are attached. It is my understanding that these remarks will be included in the final report when it is issued.

Sincerely,

A handwritten signature in cursive script that reads "Gordon K. Van Vleck".

Gordon K. Van Vleck
Secretary for Resources

DEPARTMENT OF FISH AND GAME

1416 NINTH STREET
SACRAMENTO, CALIFORNIA 95814



Comments on the Report
"The Department of Fish and Game is not Collecting
All Revenues Owed to the State"

Chapter I - Poor Collection Procedures Restrict Fish Tax Revenues

In the Department's view, the most complex and substantive issues raised by the audit are addressed in Chapter I. To fully understand the questions and criticisms presented, some understanding of the context of the current problem is required.

Basically, the Department is now confronting the consequences of taxing and licensing changes that were made in 1947. Prior to that time licensing requirements and fish privilege tax collection were simple and easy to administer. Up to that date certain classes of wholesalers and fish processors were licensed and fish that was processed was the only fish taxed. Most fish was consumed in a processed form and there were few imported fish in California.

In the late 40's and 50's, the nature of commercial fishing began to change. The sardine fishery had declined and, as refrigerated transportation improved, less fish went to processing. As canneries began to close their doors, it became apparent that licensing and taxing requirements would have to change if revenues were to be generated.

In 1947, Section 8040 of the Fish and Game Code expanded licensing requirements to all persons dealing at wholesale in fish. For some inexplicable reason, no action was taken to enforce the change. The number of dealers licensed did not increase. Taxation occurred at the processing level or with the wholesale fish dealer of first receipt.

In 1972, tax law finally caught up with licensing provisions. Section 8045 of the Fish and Game Code was amended to tax all fish (with few exceptions) and to extend the tax liability to all licensees. Again, two inexplicable events occurred: 1) imported shrimp were allowed to be taxed at a lower rate than that rate set by law, and 2) the privilege tax was still not assessed against wholesalers who bought their fish from other wholesalers (second tier dealers). In the meantime, the Department launched an effort to enforce license provisions on all wholesale fish dealers.

In 1982, a Department audit of a single shrimp dealer brought to light the inappropriate tax rate being levied. By December 1984, four other audits proved that the tax rate differential was a serious problem rather than an audit anomaly.

In December 1984 a Department Task Force was formed and their report was delivered to the Director in February 1985. The Director ordered an audit of the shrimp processors in question and when those results were received, they were submitted to the Attorney General for a formal opinion. In May 1985, the companies were advised of the appropriate tax rate of \$.0125, but they would be allowed, at their option, to continue to remit at the \$.0013 rate pending legal review. Further, that if the Department was advised by the

Attorney General to pursue collection, they would be assessed at the stipulated rate of \$.0125 for the period under the audit and for the interim period.

In August 1985, the Attorney General responded to the Department's request for legal advice with a memorandum of review, analysis and recommendations. Since it was apparent to the Department that the fish tax issue extended far beyond shrimp processors, the decision was made to rerequest the Attorney General to provide a formal opinion. Subsequently, the Department asked the Attorney General to expand the opinion to include the issue of interest charges on amounts owed.

As of the date of the Auditor General's report, the formal Attorney General's opinion is still not available to the Department. While the Department does not necessarily disagree with the report recommendations in Chapter I, many corrective measures must wait until the legal determination has been made. The Department feels that, if it is to make a change in its enforcement posture of such a large magnitude, it must do so on a firm legal base.

The Department Is Not Levying All Statutory Fish Taxes Correctly

The comments in this section refer to the shrimp wholesalers who were the subject of audits earlier this year. They have been informed that they may be liable to a higher tax rate pending the Attorney General's formal opinion. When that opinion is received the Department will assess the appropriate tax. Interest will also be charged if the Attorney General's opinion indicates that it is legal to do so.

The Department Is Not Requiring All Fish Dealers To Pay Taxes

This section addresses the propriety of taxing only wholesalers of first receipt. The contention is that second level dealers should also be assessed.

The Department's Task Force addressed this issue. In their estimation, taxing second handlers might generate up to an additional \$1.3 million dollars in revenue. Subsequent calculations indicate that the \$1.3 million dollar estimate may be too high but no final estimate has been made.

The November Task Force Report made a pertinent comment about the feasibility of collecting taxes from second handlers:

"Accounting for fish landed in the state and fish imported for processing is a relatively simple procedure. But, to account for such fish as it moves from one dealer who is subject to the tax to several other dealers subject to the tax is not a simple task.

After landing or importation, fish may become commingled with non-taxable fish, creating a need for detailed and time-consuming audits to accurately collect taxes. To effectively audit over 1,200 fish dealers statewide would require a substantial increase in auditing staff, not to mention an increased necessity for patrol involvement.

The costs of administering this far-reaching program would consume a ①* large portion of increased revenues collected. This may not be a cost-effective program."

*The Auditor General's comments on specific points contained in the agency's response appear on page 56.

The Department will proceed with appropriate action as recommended by the Attorney General's Office.

The Department Is Not Monitoring All Fish Dealers

The Department agrees that it is not monitoring all second level handlers. However, it is not accurate to say that licenses are not followed-up. The Wildlife Protection staff check licensees on a regular basis, incidental to their other workload. The Department is also developing an annual follow-up via computer run that will improve the current system.

Fish wholesaling is a dynamic industry. Past experience has shown that substantial numbers of dealers leave the business each year. The Department feels that the number of dealers actually in operation that have not been monitored is relatively small.

The Department Is Administering The Collection Of Fish Taxes Poorly

The Department agrees the fish tax program has been administered poorly in the past, primarily because of legal ambiguity and misinterpretation by audit staff. Given a sound legal base, a well-administered program will be established with all the necessary policies and procedures fundamental to a taxation program.

In the meantime, the Department recognizes the potential importance of the fish tax program. A recent reorganization plan submitted to the Director establishes an audit unit that will report directly to the Assistant Director of Administration. The plan provides for a position that will function as a tax administrator and be responsible for the fish tax program. An additional auditor position will also be added.

It should be noted that there is a cost-effectiveness question that should be addressed. The audit report itself notes that the auditor is spending 90% of his time on a program that generates less than 3% of Department revenues.

Chapter II - Poor Collection Procedures for Licensing Revenues

The License and Revenue Branch (LRB) has been under intensive scrutiny since December 1984. At that time, the Department initiated extensive changes in Branch operations and additional changes are planned. In the last year a new collection plan has been implemented, new electronic data processing equipment and cash registers have been installed, new computer software has been written, and new accounting procedures have been introduced. In addition, under an interagency agreement with the Department of Finance, the Branch, this month received a report outlining various accounting system improvements that will be made.

Chapter 1310, Statutes of 1985 (Assembly Bill 2436) became law September 30. This Bill provides in statute much of the authority the Branch needed to tighten control of license agent transactions. Improved operations and increased accountability will result as this Bill is implemented.

The Department concurs with most of the recommendations made in this Chapter of the audit. In the main they either have already been put in operation as a result of Department-initiated changes or they will be implemented as rapidly as staff and equipment can accommodate them.

It is important to note that the numbers reported in Chapter II must be used very cautiously and with full understanding of what they actually represent. Whenever a license is expired, it no longer has a monetary value per se. Its primary value is as an accounting tool to balance consignment accounts. An outstanding balance on an expired license account may represent cash owed for licenses that have been sold or it may represent the value of expired license books that were unsold and have not yet been returned. (2)

The interest calculations and expired license values, as used in Chapter II, represent maximum amounts of possible monies owed. The assumption being made is that every expired license outstanding has been sold, a worst case scenario. The likelihood of such an occurrence is remote.

The Department Is Not Ensuring That Agents Return Expired Licenses

The audit report indicates that \$700,000 worth of expired licenses are outstanding as of September, some of which are as much as four years old. LRB figures show that as of November 15, 1985, the outstanding balance was \$498,251.42, most of which is currently in Collections. No outstanding balances remain open on pre-1983 agent accounts.

Collections		
Bankruptcy	\$ 86,856.17	
Attorney General	136,046.25	
Paying on Account	90,519.45	
Affidavits	5,815.50	
Bonding Companies	23,575.00*	
FTB-Offset	<u>9,055.50</u>	
Sub-Total		\$351,867.87
Consignments		
Agents	\$ 72,557.30	
DFG Offices	<u>78,826.25*</u>	
Sub-Total		<u>\$146,383.55</u>
Total		<u><u>\$498,251.42</u></u>

*Collectible via bond payments and licenses returned from DFG offices.

Thus, LRB figures show that outstanding expired license balances have been significantly reduced and do not currently represent a significant sum in light of total revenues. (3)

LRB staff agree that licenses may continue to be consigned to agents whose accounts show outstanding balances. This is because of a technical problem associated with the computer system. The Department will work with the Finance consultant to see if technical procedures can be further improved to insure that the computer display reflects a total picture of each account.

A new credit limit/consignment policy has been introduced which prohibits the order desk staff from filling orders for most agents with expired licenses.

Policy exceptions are made, on a case by case basis, in order to minimize the potential for license shortages in the field. For example initial hunting season orders were released in low risk situations on accounts with small amounts pending (from \$10.00 to \$200.00) or with larger amounts pending if the agent was bonded for more than the total amount consigned. Exceptions were also made if the account was a well established business, such as a chain store, or if the expired licenses were being paid under a formal, payment on account schedule. Other possible exceptions would include accounts with pending affidavits for stolen or lost expired licenses or in the case of discrepancies between the Branch and the license agents which are pending research.

Agents with expired licenses are designated as a "hold" account on computer print-outs. Nearby agents with good reporting patterns may be consigned licenses above their credit limits. This step is taken because it is necessary to compensate for possible license availability shortages caused by agents who are on "hold" status on the computer.

The LRB concurs that there is a need to reconcile account receipts to the cash register and account inventory on a regular basis. LRB discussed procedural modifications to address this need with a Department of Finance consultant and new controls will be instituted. In addition, Department of Fish and Game has requested the conversion of seasonal staff to permanent intermittent staff. This should improve the effectiveness of staff training and enhance their efficiency.

Reconciliation of all old accounts is being expedited. In the past, seasonal employees did not have the skills or the time to make the kind of reconciliations necessary. The supervisor of the sales counter unit is now investigating old accounts, particularly expired LRB office accounts and the accounts of Department regional and field offices.

The Department Is Not Ensuring That Agents Are Returning Revenues Promptly

The Department realizes that in years past, collections were not properly followed up. To alleviate the problem, LRB developed a plan to ensure the timely return of monies (30-60-90 Day Plan). The Plan was approved in December 1984 and was operational by July 1985. As of the October mailing, only 262 30-day warning letters had to be sent. This represents 9% of license agents. In the meantime, LRB staff is following up accounts in which Department collection efforts have failed. The 30-60-90 Day Plan is being updated to reflect the changes required by AB 2436. This process will be completed within the next year.

The Department Is Not Promptly Depositing Collections Or
Crediting The Deposits To The Fish And Game Preservation Fund

Effective November 7, 1985, LRB began receiving same day deposit service from its armored car contractor.

Delays in deposits were due in part to a cumbersome method used for distributing revenues to various revenue codes. In August 1985, revenue codes were consolidated with the approval of the Department of Finance. Instructions have also been given to appropriate staff to implement procedures outlined in the State Administrative Manual. Department of Fish and Game believes that these corrective measures already taken will correct deposit delays.

The Department Is Not Consigning Licenses
In Accordance With Assigned Credit Limits

The LRB agrees that credit limits for agents have been and continue to be a problem. The existing credit limits were set many years ago and have not been adjusted on an ongoing basis to reflect the rising prices of licenses. LRB is currently exploring the workload impacts of reviewing the credit limits on 2,800 agent accounts. In the meantime, a credit limit policy and accompanying forms have been developed and are used for making credit limit adjustments. Problem accounts are immediately adjusted as they arise. In addition, an agent who receives a 60-day collection letter is automatically required to be bonded to an adequate limit.

The LRB bonding policy since April 1985 has required all new agents to bond, with policy exceptions being made only in cases of demonstrated Department need. Effective with the passage of AB 2436 in September 1985, all new agents must bond and consignments will not exceed these bonds. Letters which go to new agent applicants listing bonding requirements have already been revised to reflect this change.

The Department Is Not Monitoring Or Controlling
The Reporting Of Lost Or Destroyed Licenses

LRB had, before the time of this audit, conducted an analysis of affidavits and declarations on lost licenses. A draft policy had also been developed. LRB is collecting information from other states to assist in finalizing policy and procedures for handling losses due to theft, fires and mail carrier losses.

At present, most losses reported are United Parcel Service (UPS) losses. These are being investigated through UPS tracing procedures. LRB staff discusses other losses with license agents and requires and reviews police and fire reports. In some instances, DFG wardens investigate losses due to theft.

A bar code project is currently underway to record licenses by serial numbers. This will improve the traceability of individual license books and the accountability of agents. EDP resources have been allocated to this project beginning January 1986. It will take approximately one year to complete. Once this is on-line the automated system will reflect the licenses by type, book and value, thus making possible a more complete reconciliation of accounts.

LRB estimates that losses incurred represent .7% of the revenue collected from the sales of licenses. While any loss is unacceptable, current procedures and new authority under AB 2436 should lower this already small percentage.

Chapter III - Poor Controls Over Data Processing Activities

The Department concurs with the recommendations made in Chapter III and is proceeding to implement them.

Physical security in the operations area has been improved. Operations personnel now keep the area locked at all times.

A task force is currently preparing a department-wide automation plan that will address alternate computing sources and division of data processing duties. Implementation of the automation plan will allow the Department to be prepared for unexpected physical or mechanical disasters and to adequately separate data processing duties.

Auditor General Comments:

- ① The costs of efficiently administering the program should be much less than the \$1.3 million in revenues that the department estimates it will collect. However, on page 17, we recommend that the department work with the Legislature to change the law if the department determines that there is a better way to collect the tax.
- ② On page 21, we estimate that, based on information provided by the department, the cash collections will be approximately \$710,500. Our conservatively calculated lost interest amount recognizes that the actual cash collections were unknown but could have been up to \$1.0 million and that the lost interest could have been up to \$75,000.
- ③ The department's table presents data as of November 15, 1985, which was after the date of our fieldwork.

cc: Members of the Legislature
Office of the Governor
Office of the Lieutenant Governor
State Controller
Legislative Analyst
Assembly Office of Research
Senate Office of Research
Assembly Majority/Minority Consultants
Senate Majority/Minority Consultants
Capitol Press Corps